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265 NLRB No. 32

D--9451
Ellijay, GA

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

ROBERTSHAW CONTROLS COMPANY

and

Case 10--CA--17092

INTERNATIONAL UNION OF ELECTRICAL,
RADIO, AND MACHINE WORKERS,
AFL--CIO, AND ITS LOCAL 194

DECISION AND ORDER

Upon a charge filed on June 17, 1981, by International Union of Electrical, Radio, and Machine Workers, AFL--CIO, and its Local 194, herein called the Charging Party, and duly served on Robertshaw Controls Company, herein called Respondent, the General Counsel of the National Labor Relations Board, by the Acting Regional Director for Region 10, issued a complaint and notice of hearing on July 10, 1981, against Respondent alleging that Respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the National Labor Relations Act, as amended. Copies of the charge and complaint and notice of hearing before an administrative law judge were duly served on the parties to this proceeding.

With respect to the unfair labor practices, the complaint alleges in substance that on May 18, 1981, the Charging Party, by letter, requested Respondent to furnish it with a list of the

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names and addresses, seniority dates, wage rates, job classifications, and shift and plant assignments of all the employees of Respondent in the appropriate unit and that Respondent has refused and continues to date to refuse to furnish the requested information to the Charging Party as the exclusive bargaining representative of the aforementioned employees. On July 15, 1981, Respondent filed its answer, admitting in part, and denying in part, the allegations of the complaint.

On October 28, 1981, counsel for the General Counsel filed directly with the Board a Motion for Summary Judgment, submitting, in effect, that Respondent's answer to the complaint raises no genuine issue as to any material fact and that the General Counsel is entitled to judgment as a matter of law, and asking that the Board grant the Motion for Summary Judgment and issue an appropriate remedial order. Subsequently, on October 30, 1981, the Board issued an order transferring the proceeding to the Board and a Notice To Show Cause why the General Counsel's Motion for Summary Judgment should not be granted. Respondent thereafter filed a response to the Notice To Show Cause.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Upon the entire record in this proceeding, the Board makes the following:

Ruling on the Motion for Summary Judgment

In its answer to the complaint and its response to the Notice To Show Cause, Respondent admits that it refused to provide the requested information but argues that it had no duty to do so because it had no bargaining obligation at that time. Respondent concedes, however, that whether it violated Section 8(a)(5) and (1) of the Act by its refusal on May 18, 1981, to furnish the requested information depends entirely on whether Respondent was legally required to bargain with the Charging Party pursuant to its demand of January 3, 1979, and that this question "can only be answered by the Board in its decision in Case No. 10--CA--14508." The General Counsel contends that Respondent did have such a bargaining obligation at all times pertinent.

On September 9, 1982, the Board decided in Case 10--CA--14508 that Respondent did have an obligation to bargain with the Charging Party on January 3, 1979, and thereafter.¹ Accordingly, we find that Respondent was required to furnish the requested information on May 18, 1981, and that it violated Section 8(a)(5) and (1) by its failure to do so. We shall therefore grant the Motion for Summary Judgment.

On the basis of the entire record, the Board makes the following:

¹ Robertshaw Controls Company, 263 NLRB No. 128 (Member Jenkins dissenting in part on other grounds).

Findings of Fact

I. The Business of Respondent

Respondent is, and has been at all times material herein, a Delaware corporation, with an office and place of business located in Ellijay, Georgia, where it is engaged in the manufacture of appliance controls.

During the past calendar year, a representative period, Respondent, in the course and conduct of its business operations described above, sold and shipped from its Ellijay, Georgia, facilities finished products valued in excess of \$50,000 directly to customers located outside the State of Georgia.

We find, on the basis of the foregoing, that Respondent is, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act, and that it will effectuate the policies of the Act to assert jurisdiction herein.

II. The Labor Organization Involved

International Union of Electrical, Radio, and Machine Workers, AFL--CIO, and its Local 194, is a labor organization within the meaning of Section 2(5) of the Act.

III. The Unfair Labor Practices

A. The Unit

All full-time and regular part-time production and maintenance employees employed by Respondent at its Ellijay, Georgia, facilities, including local truck drivers, but excluding all office clerical employees, technical employees, professional employees, guards and supervisors as defined in the Act,

constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act.

B. The Certification

On September 26, 1975, a majority of the employees of Respondent in said unit, in a secret-ballot election conducted under the supervision of the Regional Director for Region 10, designated the Union as their representative of the purpose of collective bargaining with Respondent.

The Union was certified as the collective-bargaining representative of the employees in said unit on October 6, 1975, and the Union continues to be such exclusive representative within the meaning of Section 9(a) of the Act.

C. The Refusal To Furnish Information

On or about May 18, 1981, the Charging Party, by letter, requested Respondent to furnish it with information relevant to bargaining, including a list of the names and addresses, seniority dates, wage rates, job classifications, and shift and plant assignments of all of the employees of Respondent in the unit described above. Commencing on or about May 18, 1981, and continuing at all times thereafter to date, Respondent has refused, and continues to refuse, to furnish the requested information.

Accordingly, we find that Respondent has, since May 18, 1981, refused to furnish information relevant to bargaining to the Charging Party as the exclusive representative of the employees in the appropriate unit, and that, by such refusal, Respondent has engaged in and is engaging in unfair labor

practices within the meaning of Section 8(a)(5) and (1) of the Act.

IV. The Effect of the Unfair Labor Practices Upon Commerce

The activities of Respondent, set forth in section III, above, occurring in connection with its operations described in section I, above, have a close, intimate, and substantial relationship to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. The Remedy

Having found that Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act, we shall order that it cease and desist therefrom, and, upon request, provide the Charging Party with information relevant to bargaining.

The Board, upon the basis of the foregoing facts and the entire record, makes the following:

Conclusions of Law

1. Robertshaw Controls Company is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. International Union of Electrical, Radio, and Machine Workers, AFL--CIO, and its Local 194, is a labor organization within the meaning of Section 2(5) of the Act.

3. All full-time and regular part-time production and maintenance employees employed by Respondent at its Ellijay, Georgia facilities, including local truck drivers, but excluding all office clerical employees, technical employees, professional

employees, guards and supervisors as defined in the Act, constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act.

4. Since October 6, 1975, the above-named labor organization has been and now is the certified and exclusive representative of all employees in the aforesaid appropriate unit for the purpose of collective bargaining within the meaning of Section 9(a) of the Act.

5. By refusing on or about May 18, 1981, and at all times thereafter, to furnish the Charging Party with a list of the names and addresses, seniority dates, wage rates, job classifications, and shift and plant assignments of all the employees in the appropriate unit, Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(5) of the Act.

6. By the aforesaid refusal to furnish information, Respondent has interfered with, restrained, and coerced, and is interfering with, restraining, and coercing employees in the exercise of the rights guaranteed them in Section 7 of the Act, and thereby has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

7. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, Robertshaw Controls Company, Ellijay, Georgia, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Failing or refusing to furnish information relevant to bargaining, including a list of the names and addresses, seniority dates, wage rates, job classifications, and shift and plant assignments of all the employees of Respondent in the appropriate unit.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them in Section 7 of the Act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Upon request, promptly furnish the Union a list of the names and addresses, seniority dates, wage rates, job classifications, and shift and plant assignments of all the employees in the unit.

(b) Post at its Ellijay, Georgia, facilities copies of the attached notice marked "'Appendix.'"² Copies of said notice, on

² In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "'POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD'" shall read "'POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD.'"

forms provided by the Regional Director for Region 10, after being duly signed by Respondent's representative, shall be posted by Respondent immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director for Region 10, in writing, within 20 days from the date of this Order, what steps have been taken to comply herewith.

Dated, Washington, D.C.

November 1, 1982

John H. Fanning, Member

Howard Jenkins, Jr., Member

Don A. Zimmerman, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

WE WILL NOT refuse to furnish information relevant to bargaining to International Union of Electrical, Radio, and Machine Workers, AFL--CIO, and its Local 194.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL, upon request, promptly furnish the Union a list of the names and addresses, seniority dates, wage rates, job classifications, and shift and plant assignments of all the employees in the unit. The bargaining unit is:

All full-time and regular part-time production and maintenance employees employed by us at our Ellijay, Georgia facilities, including local truck drivers, but excluding all office clerical employees, technical employees, professional employees, guards and supervisors as defined in the Act.

ROBERTSHAW CONTROLS COMPANY

(Employer)

Dated ----- By -----
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, Marietta Tower, Suite 2400, 101 Marietta Street, NW., Atlanta, Georgia 30323, Telephone 404--221--2886.